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Nevada County Department of Agriculture
Pesticide Use Enforcement Work Plan

Fiscal Years July 2010 through June 2013

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A. Restricted Materials Permitting

Permit Evaluation

- In Nevada County the number of restricted material permits (RMPs) issued on a yearly basis varies. Eighteen permits issued in 08/09, and 6 denied
- Most RMPs issued are for aluminum phosphide and phenoxy herbicides
- RMPs for restricted materials are issued to the operator or their designated representative of the property to be treated
- RMPs are approved only if the permittee has a valid private applicators certificate or qualified applicators certification
- The county administers the private applicators certification exam
- Private applicators certification exam takes approximately one hour
- RMP issuance takes approximately one hour
- RMPs are signed by the permittee or documented representative (California Code of Regulations Title 3 (3CCR) section 6420)
- RMPs are site and time specific
- RMPs are issued for a period of one year or less
- RMPs are recorded on an approved form (PR ENF – 125)
- Pest Control Advisors (PCAs) and growers are asked if they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require RMPs
- Growers are counseled on alternative non-restricted chemicals and other available methods of pest control
- RMP applications are documented on an approved form with all applicable required information (3CCR section 6428) and are completed by licensed staff
- Non Ag RMP applications are documented on an approved form with all applicable required information (3CCR section 6430) completed by licensed staff
- RMPs are evaluated at the time of issuance and when the Notice of Intent (NOI) is received to determine if a substantial adverse environment impact may result
- A RMP is denied or conditioned recognizing and utilizing appropriate mitigation measures
- Appropriate mitigation considered includes knowledge of local conditions, pest management guidelines, restricted material, hazard chart, pesticide information series, locally developed RMPs conditions, Food and Agriculture Regulations (including 3CCR sections 6443 and 6450 through 6489)
- If a RMP is denied the applicant will be given due process in the form of a notice and an opportunity to be heard. Findings to deny the RMP will be consistent with the requirements of Food and Agriculture Code (FAC) section 14008
- A map of the area to be treated and the surrounding area will be created using ArcMap GIS software to help identify environmental concerns. One mile buffer zones have been created around vineyards in ArcMap to assure that there is no 2,4-D use between March 1 and October 31
- 24 hour NOI is required
- 10-30 NOIs are received annually

Strengths

- Good staff knowledge of farm locations and local conditions helps to make informed decisions when evaluating and issuing RMPs
- Most RMPs are yearly renewals and not new sites
- Narrow range of restricted chemicals used in Nevada County

Weaknesses

- Referencing use reports back to NOIs to make sure they are being submitted
- Maintenance of RMP files to ensure all information and documentation is up to date
- All files need to include PAC applications for all private applicators using restricted materials
- Contacting DPR's Enforcement Branch Liason (EBL) to visit county and conduct oversight inspections on restricted materials applications to evaluate RMPs.

Goals

The goal of the County of Nevada Department of Agriculture is to continue to improve the RMP application process to insure the safe use of pesticides and to protect our residents, workers and the environment. We will review NOIs as identified in the above summary.

Deliverables

- All operator I.D.'s and restricted use permits for the 2009 calendar year and beyond will be issued using the new Ag.GIS system
- Identify sensitive areas (i.e. schools, vineyards) on maps
- Evaluate RMPs for adverse environmental impacts
- Approve, deny, and condition RMPs as necessary
- Review PAC applications for completeness and accuracy
- Review PAC expiration date before issuing permit
- Provide guidance to those that fail the PAC test and reschedule testing at a later date
- Provide study material for PAC test
- Review permits for completeness and accuracy
- Review permit evaluation process with licensed staff and with our EBL

Measures of Success

The best measure is the yearly evaluation of our permitting process for improvements and deficiencies. This will include the review of RMPs, non-compliances and PRAMR data. We will discuss with licensed staff and the EBL our RMP evaluation process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or areas of concern.

Site-Monitoring Plan Development

- The majority of NOIs are for Phenoxy herbicides applied to forest lands, and aluminum phosphide for rodent control
- Vikane is used for structural pest control in some instances, typically less than 10 fumigations per year occur in Nevada County
- Licensed staff review all NOIs
- Licensed staff will monitor RMPs as required in 3CCR section 6436.
- A minimum of five percent of the sites identified in permits or NOIs will be monitored by conducting a pre-application inspection
- Monitoring will include evaluation of the basis for the intended application including written recommendation, if any, toxicity of material (category I are first priority), environmental concerns (endangered species, buffer zone areas, school areas, ag-urban interface areas, problem areas identified from previous years, section 18 registrations, etc)
- NOI is required to be submitted for non-agricultural RMPs prior to the first application after RMP renewal

Strengths

- Very few types of restricted materials used in Nevada County
- Staff has good knowledge of local environmental conditions

Weaknesses

- Timing for pre-site inspections sometimes conflicts with other job duties in an office with limited staff
- Communicating with the EBL to conduct oversight inspections on restricted material applications after receiving an NOI to evaluate county pesticide use enforcement (PUE) program

Goal

Our goal is to implement measures that ensure site monitoring considerate of pesticide hazards, such as, but not limited to, agriculture/urban interfaces, local farming conditions and permittee and advisor compliance histories. A special emphasis will be placed on working with growers that are farming at the ag/urban interface and other sensitive sites.

Deliverables

- No less than 5% of NOIs at Agriculture/Urban areas will be monitored to ensure safety to residences, schools and businesses
- All NOIs will be reviewed by licensed staff to ensure that:
 1. A valid RMP was issued for the material to be applied to the intended site
 2. Crop or application site is allowed by label/Section 18/ RMP conditions
 3. Method of application is allowed by pesticide label & RMP conditions

4. Dilution/volume per acre is appropriate
 5. Material is appropriate for pest to be controlled
 6. Surrounding areas will not be adversely impacted by application
- At least 5% of the NOIs received will have pre-site inspections conducted . This will help identify sensitive areas or changes in the surrounding environment to application sites prior to the pesticide application being conducted
 - Record and evaluate all NOIs
 - All NOIs that are denied shall be recorded on a NOI denial form and counted for the PRAMR and filed

Measures of Success

The best measure of success is the continuous evaluation of our site-monitoring plan for improvements and deficiencies. Assessing the number of complaints received from agriculture/urban interfaces will help evaluate needs to address pesticide issues. Periodic review by licensed staff and by our EBL will help in analyzing our measure of success in this program. This will include “new” pesticides to focus on, environmental factors that need addressing, new priority programs put into place by this department or DPR or an outside agency. This department will document our assessment findings and any changes to our site-monitoring plan.

B. Compliance Monitoring

Comprehensive Inspection Plan

- Three trained and licensed staff, two Ag. Biologist II, and one Ag Biologist III will perform inspections
- Nevada County’s inspection program evaluation reveals that 65% of our inspections are scheduled
- Scheduled inspections primarily include grower or headquarter safety and records inspections
- Targeted inspections comprise 15% of our inspection workload and are prioritized by: application of a restricted material, compliance history and employers who have employees handling pesticides
- Chemical hazard, environmental concerns and applicator compliance history prioritize these inspection activities
- 20% of our inspection activities are more random and focus on general applications.

Strengths

- Due to a small agricultural community in our county, we know most growers and have a good working relationship with most of them
- We are able to rotate through all growers, and inspect on a 2-3 year cycle
- Any growers with non-compliances are inspected more frequently

- Growers with employees are also a priority for inspection
- Our pesticide dealers are inspected on a yearly basis
- We have historically had a low level of pesticide related illnesses in our county
- Attend trainings offered by DPR
- PUE binder created to help track inspections and compliance

Weaknesses

- Due to a small staff and a variety of duties to be performed, we are not always able to optimize our timing of inspections
- Communication with EBL to schedule oversight inspections
- Timely follow-up on non-compliances needs improvement.
- Regular maintenance of PUE binder.

Goal

Develop a better PUE program. Increase compliance with pesticide laws and regulations involving pesticide use within Nevada County. A commitment to implement a comprehensive compliance inspection plan, based on the findings of the evaluation identified above, to ensure pesticide users are adequately monitored throughout the county with adequate follow-ups to close out any non compliances found during inspections. We will focus on newly registered businesses to ensure that they have an understanding of what is required to be compliant. We will plan outreach to maintenance gardeners by working with our local cities to distribute fliers to people who apply for maintenance gardener business licenses. The flier will explain the licenses and registration requirements necessary to be a landscape maintenance business. We will be on the lookout for new landscape maintenance businesses that are not properly licensed and registered, and will supply all maintenance gardeners with a copy of the requirements flyer. We will also track which companies receive flyers. We will also focus on areas of non-compliance identified during Headquarters Safety Inspections, Application Inspections or other inspections. We will close out all non-compliances by conducting follow-up inspections.

Compliance Goals 2009/2010 Due to Recent Regulation Changes

- A major emphasis for 2009-2010 will be assessing grower and PCB compliance with the new respiratory protection regulations, and the regulatory requirements for use of sulfur dioxide (SO₂) by wineries for sanitation of wine barrels and corks. Outreach regarding necessary respirator program evaluation and record keeping requirements, as well as the SO₂ issue will be directed through continuing education classes; the County Ag Commissioner's website; the newsletter; and grower and winery organizations.
- The registration of the Fruit Doctor compressed SO₂ gas as a federally restricted material in September 2008 necessitates that wineries comply with regulations regarding the purchase and use of the product. Wineries will need an Op ID and a certified applicator (qualified applicator certificate or qualified applicator license). The ag commissioner's office began issuing Op IDs in October 2008. The office

conducted a dealer audit with the County SO₂ supplier in Spring 2009 and compare the list of SO₂ Op ID holders to the sales invoices. No operator ID,s were obtained for the use of Sulfur Dioxide, and no Sulfur Dioxide was sold by the local dealers. All wineries, with the exception of 1,are using alternative methods for wine barrel sterilization. Outreach to regional industrial gas suppliers other than those known to be selling Fruit Doctor will be done to inform them of the requirements when selling SO₂ for pesticidal purposes. The office will provide guidance to wineries on obtaining a QAC or QAL with the new interim category "P" for SO₂ use.

Deliverables

- Based on our historical inspection data, we have set our July 2009 through June 2010 yearly inspection goals as follows:
 - Application Inspections - 6
 - Field Worker Inspections - 1
 - Mix Load Inspections - 3
 - Structural Fumigation Inspections - All
 - Headquarter/Employee Safety Inspections - 8
 - Permit Monitoring Pre-site Inspections - 5%
 - Pest Control Business Record Inspections - 4
 - Pest Control Dealer Record Inspections - 2
 - Ag Pest Control Advisor Record Inspections - 2
- Continue in our efforts from past years to focus on investigating and bringing unlicensed maintenance gardeners into compliance as stated in the goals section by public outreach through our 2 pesticide dealers and field surveillance and inspections
- Work with new agricultural and pest control businesses coming into our county on compliance before problems arise
- All non-compliances will be tracked and followed up on as required
- All violations will be dealt with using the Enforcement Response Regulations (ERR) guidelines
- Permit holders with a recorded non-compliance will be monitored more frequently
- Copies of all inspections will be kept in permit holder files to address non-compliance history and increased monitoring needs
- Work with AIRS
- Inspections, decision reports and NOPAs, and will be maintained in a PUE binder.

Measures of Success

The goal of a comprehensive inspection plan is to improve the PUE program and increase compliance. A decrease in non-compliances can be an effective indicator of success if all other things are equal. Our current plan will allow for flexibility for changes that may occur with pesticide use activities or with changes in priorities within the county or at the state level. Periodic review by licensed staff and by our EBL will help in analyzing our measure of success in the program.

Investigation Response and Reporting Improvement

Investigation Response and Reporting

The Nevada County Department of Agriculture receives very few episode notifications on a yearly basis. When an episode notification is received we will complete the investigation within the required 120 days.

- All biologists in are trained to conduct investigations relating to pesticide illness and pesticide complaints. Assignment of the investigation and final approval comes from the Commissioner
- Investigations that indicate regulatory non-compliance are discussed for further compliance or enforcement action.
- The agricultural biologist makes the recommendation on enforcement actions. Actions are written by Joe Damiano, Ed King, or Brian Steger then reviewed and signed by the Commissioner.
- A log is maintained by Staff giving the status of all investigations

Strengths

- Experienced investigators with good writing skills
- Tracking system in place to monitor investigation status

Weaknesses

- More experience over the years will generate better reports
- Ensure that a complaint log book is maintained and the associated investigations have been logged, responded to, closed out and a file kept of all complaint investigation

Goals

A commitment to implement an investigation response plan, based on the findings of the evaluation identified above, to ensure all investigations are completed in a timely manner with accurate and supportive information.

Deliverables

- Timely initiation and completion of all priority and non-priority investigations
- Start priority episode investigations within three working days of receiving notification
- Request assistance from EBL in priority investigations
- Complete all investigative reports within 120 days
- Development and use of investigation procedure
 - Use elements of violation analysis in Hearings Sourcebook
- Make sure the plan includes at a minimum the following:
 - List the suspected violations by element
 - List persons who need to be interviewed

- List type of samples to collect
 - List other evidence necessary: RMPs, NOIs, PURs, training records, diagrams, photos
 - List probable inspection activities
 - List possible violations, if necessary or applicable
 - Summarize the findings of fact to date, and planned activities
 - List of persons who need to be provided with periodic updates
 - Address agreements with other agencies and legal mandates
- Thorough report preparation
 - Follow episode report form carefully
 - Attach supporting documentation and evidence
 - Tracking system for assuring episode notifications and investigations are completed in a timely manner
 - Rotate staff thorough training in investigative techniques
 - Provide staff with a worksheet for all pesticide episode investigations

Measures of Success

The best measure of success is the yearly evaluation of our investigation and response reporting for deficiencies. We will discuss with licensed staff and DPR EBL our investigation and response reporting process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or areas of concern. Periodic review of all investigations will be imperative to assure that all priority investigations are reported to the EBL immediately and a 15-day report is submitted. Additionally, complete all priority investigations within 60 days of when the Nevada County Department of Agriculture was notified of the incident. All non-priority investigations are completed within 120 days. The number of returned or incomplete investigations will also show a direct correlation to the success of this program

C. Enforcement Response

Enforcement Response Evaluation

- ERR guidelines will be followed for all enforcement actions

Strengths

- When properly followed, these practices result in a timely response to non-compliances
- Use of PUE inspections when deciding actions help to get all the mitigating factors out on the table prior to taking an action and also results in consistent enforcement
- Review practice assures public and DPR of proper handling of non-compliances
- Working with EBL to improve PUE program

- New binder for tracking enforcement compliance. The binder is sectioned off to keep inspections, decision reports and PECAS organized to track the progress of all enforcement actions

Weaknesses

- To early to evaluate (working with the new ERR over time will give us more experience)
- Creation of enforcement/compliance actions that follow ERR in a timely manner and reporting actions to DPR/EBL as required

Goal or Objective

The goal of implementing the ERR is to provide a swift and fair response to non-compliances that result in future compliance by the respondent. Work with EBL to ensure that actions are consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of the office.

Deliverables

- Consideration of all appropriate enforcement options (follow ERR) and discuss with EBL
- Timely response
- Oversee support staff to be sure actions are sent out immediately upon signature of the Commissioner.
- Steps to follow through on pending action
 - Each month the log showing all activity on ongoing investigations is reviewed by Joe Damiano.
 - Log is discussed at monthly staff meeting to assess progress.

Measure Success

The best measure of success of the enforcement response program is the resulting compliance record of those entities that have been affected by the program. Monitor the compliance history of those businesses that have received actions from our enforcement response program to see if their compliance has indeed increased. There should also be an improvement in the compliance of other entities that have been indirectly affected by our enforcement response program through industry contact, but that would be difficult if not impossible to measure in many cases.

D. Resources

Personnel

- Commissioner @ 15% on PUE
- 1 clerical position 10% on PUE
- 1 agricultural biologist III 20% on PUE
- 2 agricultural biologist II 15% each on PUE

Assets

- Each biologist has a vehicle for his exclusive use
- Three workstations for issuing RMPs and operator ID numbers
- One workstation used for GIS mapping
- Tablet PC with AIRS software